

Indiana Regulated Community
Meeting with
U.S. EPA Region V
September 26, 2012

General

1. Several months ago the President issued an Executive Order requiring coordination amongst federal agencies when reviewing oil and gas activities. What are the specific actions Region V can identify that are of importance to the state of Indiana?
2. What are the management top five priorities for Region V for the current year?
3. What are the current enforcement objectives within Region V and are there any new significant enforcement initiatives by EPA with regard to Indiana operations?
 - a. Has EPA undertaken any enforcement action in Indiana based on aerial inspections? If so, what industries or activities are the focus of those investigations and does EPA plan to continue to utilize aerial surveillance?
 - b. Does EPA Region V see the Inspector General's recent criticism of state enforcement of federal hazardous waste programs as applicable to Indiana. If so, how does EPA plan to respond?
4. Does Region V top management meet on a regular basis with Indiana DEM Commissioner Easterly and his top managers to discuss issues and concerns regarding those programs that are within EPA's oversight jurisdiction?
5. How does Region V view IDEM's management of air, water and waste issues in comparison to other Region V states? What can IDEM learn from other states and what can other states learn from IDEM?
6. Would you please provide the current organizational chart for Region V?
7. In the recent modification to the EPA Settlement Agreement With Sierra Club Regarding Action On Petition Regarding Startup, Shutdown, and Malfunction (SSM) Provisions, the parties extended from August 31 to October 1, 2012, the date by which EPA agrees to take final action on Sierra Club's SSM petition. The trade press reports that EPA Regional Offices have been working with the affected states to reach consensus on what needs to be addressed. How is Region V addressing this issue for Midwest sources?

Air Issues

1. EPA's options following the recent vacatur of CSAPR include petitioning for a rehearing en banc and appealing the decision to the Supreme Court. Has EPA decided on an option?
2. Is EPA evaluating the effect of the CSAPR vacatur on the EGU MATS rule since MATS assumed implementation of CSAPR in its base case?
3. Since it will take EPA OAQPS many years to develop a new rule to replace CSAPR, is Region V planning to work cooperatively together with Midwest states to find quicker solutions or alternative solutions to interstate transport problems to address existing or new NAAQS's, in light

of the vacatur of CSAPR?

4. What is the status of the recent Maximum Achievable Control Technology (“MACT”) proposals for Area Sources, Boilers, Chemical Manufacturing? What guidance is EPA providing to Indiana to prepare for implementation of these rules?
5. Can you discuss the role and process that Region V, separately or with the states, is taking to address one year compliance extension requests from sources struggling to meet the short compliance timeframes with either the Boiler MACT or utility MATS rules?
6. Does Region V anticipate the New Source Performance Standards (“NSPS”) Oil and Gas rules regulating Volatile Organic Compounds (“VOCs”) will play a significant role in NAAQS attainment efforts in its states? Is there data that is available to explain the potential impacts?
7. EPA has not provided adequate SO₂ modeling or monitoring guidance yet for states or sources to start SIP development work to comply with the new SO₂ NAAQS. When is final guidance expected and how will it address increasing concerns about poor AERMOD performance replicating real world conditions.
8. The NSPS rule for oil and gas addresses green completions and exemptions from such. What guidance is EPA going to offer on the details of implementation of that rule?
9. What kind of CO₂ BACT limits is Region V requiring major new sources to include in their Title V permits.
10. What is EPA's assessment of the Ozone Transport Commission (“OTC”) proposal of expanding the number of states in the Eastern US Transport zone?
11. It has been observed that EPA Region V appears to be advancing a changed opinion on application of Compliance Assurance Monitoring (“CAM”). What is the reason for that change?
12. What is the Region's Enforcement goal relative to Leak Detection and Repair (“LDAR”)?
13. With regard to Title V permit and regulation of GHG emission sources, how does EPA anticipate coordinating with MSHA health and safety relative to mine ventilation requirements?

Water Issues

1. What is the status of EPA’s evaluation and potential promulgation of new selenium water quality standards? Is there a timeframe for when EPA will announce whether new standards will be proposed? What is the likely method for deriving the standards (i.e., fish tissue, water column, etc.)? Is the data EPA is considering available for review?
2. With the significant drought in the Midwest we experienced this year and the implications on curtailing electricity and industrial production due to concerns with exceeding thermal discharge limits, what relief can EPA provide sources that may need to temporarily exceed permitted thermal limits in order to provide electricity and other necessary services to Midwest consumers.

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3. Please describe the resources (staffing, funding, etc.) in Region V being devoted to reviewing Indiana coal-related NPDES new permits, renewals, and major modifications.
 - a. How many of these permitting actions are pending with EPA Region V?
 - b. What type of comments and/or objections has Region V been making with respect to these permitting actions?
 - c. Is any other EPA region reviewing all NPDES new permits, renewals, and major modifications proposed by State agencies implementing an EPA approved water program?
 - d. Is Region V reviewing non-coal NPDES proposed permitting actions in any states? What about other EPA regions?
4. With respect to EPA's new general permit for storm water discharges from construction projects:
 - a. What is the status of the proposed numeric turbidity limits that have been stayed?
 - b. Please describe Region V's expectation of how the states who administer their own general storm water permit should consider EPA's new permit when renewing their state permits.
5. What is the status of EPA's rulemaking effort to address post-construction storm water discharges from new or redeveloped sites as required by the settlement agreement in *Fowler v. EPA*?
6. What efforts, if any, is Region V undertaking with respect to whether to propose water quality standard for conductivity, TDS, or sulfate?
7. What issues have Region V recently raised with the Indiana Department of Environmental Management concerning Indiana's water quality standards?
8. What efforts, if any, is EPA undertaking with respect to whether to propose water quality standard for bromides? Any other regulatory effort concerning bromides?
9. Please provide a summary of EPA's efforts to regulate water discharges associated with hydraulic fracturing.

Waste Issues

1. With respect to the PCB (Polychlorinated Biphenyl) Program under the Toxic Substances Control Act:
 - a. What is the status of the advanced notice of proposed rulemaking (ANPRM) and potential proposed rule regarding The Reassessment of Use Authorizations for PCBs?
 - b. Are there any TSCA PCB updates on use authorizations for non-liquid PCBs in paints, coatings, caulks, Galbestos, etc.?

- c. What will be EPA Region V's role in polychlorinated biphenyl (PCB) inspections in the new fiscal year? Who will be approving self-implementing plans for PCB cleanup under TSCA?
2. With respect to the proposed coal combustion residuals rule:
 - a. What evaluation process is EPA using to define the safety of beneficial reuses of coal ash? What is the status of EPA's analysis of the health risks, if any, from the beneficial reuse of coal ash in products?
 - b. What is the status of Sierra Club's citizen suit, *Appalachian Voices et al. v. Jackson*, No. 1:12-cv-00523-RBW (D.D.C.), concerning EPA's coal combustion residuals regulation? Are the parties in settlement discussions regarding possible dates for action by EPA? What dates are being demanded, proposed, and/or discussed?
 - c. What is the status of EPA's final coal combustion residuals regulation? Does EPA have a projected date for submitting the final rule to the White House Office of Management and Budget (OMB)?
3. What is the status of the following rulemakings:
 - a. Final rule on Modification to RCRA Rules Associated with Solvent-Contaminated Industrial Wipes: Is EPA on target to promulgate the final rule this summer?
 - b. Final rule on the Definition of Solid Waste: Does EPA still plan to sign the final rule by the end of 2012? Is EPA planning any changes to the RCRA definition of solid waste which will impact recycling that can be shared?
 - c. What is the status of the final Universal Waste Rule for hazardous pharmaceutical wastes? Will EPA be issuing healthcare-specific guidelines for hospitals, nursing homes, clinics, veterinarian hospitals/clinics, doctors' offices, etc.? If so, what is EPA's projected timeline for the guidelines?
4. What is the status of the electronic manifesting initiative?
5. With respect to the Emergency Planning Community Right-to-Know Act (EPCRA) Toxics Release Inventory (TRI) Program:
 - a. What activity, if any, is there to expand the TRI Program by adding new chemicals, new industrial sectors, or designating additional chemicals as persistent, bioaccumulative and toxic (PBT)?
 - b. Is EPA Region V comparing treatment, storage, and disposal facility (TSDF) and generator TRI submissions?
 - c. Does EPA plan to increase investigation of state solid waste programs? If so, what has triggered EPA's increased investigation of state solid waste programs? What will EPA investigation of state solid waste programs entail?

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- d. With respect to wastes from the oil and gas sector, what is the status of EPA's review of the oil and gas exploration and production exemption? Does EPA plan to issue any additional guidance? If so, when and on what topics?
6. With respect to the cleanup of contaminated land:
- a. EPA's Office of Brownfields and Land Revitalization (OBLR) recently held two strategic listening sessions seeking input on the Assessment, Revolving Loan Fund and Cleanup (ARC) grant competition process in May 2012. What was the gist of the public feedback? What are EPA's plans for incorporating that feedback into the FY 2013 ARC process?
 - b. After the 2002 Brownfields Amendments, EPA discouraged prospective purchaser agreements but recently, there have been a number of notices of prospective purchaser agreements published in the *Federal Register*. Is EPA Region V doing prospective purchaser agreements? If so, what is the typical turnaround time in Region V?
 - c. What is the status of EPA's Google Earth type project for identifying land-use restrictions? Where is the information coming from that EPA is using for this project?
 - d. What dioxin cleanup standards are to be used now that EPA has pulled its interim preliminary remediation goals from OMB? When does EPA expect to release the cancer portion of its dioxin risk assessment?